



APA-6  
10/96

**ECONOMIC IMPACT STATEMENT  
FOR APA RULE  
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 810-6-5-.36

Rule Title: Prepaid Wireless 9-1-1 Charge

         New   x   Amend          Repeal          Adopt by Reference

- NO This rule has no economic impact.  
 YES This rule has an economic impact, as explained below:

1. **NEED/EXPECTED BENEFIT OF RULE:**  
The EMS 9-1-1 Board has increased the Prepaid Wireless 9-1-1 Charge to a flat rate of \$1.75 per retail transaction effective August 1, 2014. The amendment is necessary to correct the rate specified in the rule.
2. **COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:**
3. **EFFECT OF THIS RULE ON COMPETITION:**  
N/A
4. **EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:**
5. **EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:**
6. **SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:**  
Emergency 9-1-1 Service Charge
7. **THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:**

8. **UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:**
  
9. **THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:**
  
10. **DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:**
  
11. **OTHER COMMENTS:**  
Act 2012-293 amended Chapter 98 of Title 11 and required the ADOR to collect and distribute back to the EMS Board the monies collected. The Board is allowed to set rates as needed to fund the emergency 9-1-1 services.

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11/96

**ALABAMA DEPARTMENT OF REVENUE  
Sales & Use Tax Division**

**NOTICE OF INTENDED ACTION**

**RULE NO. & TITLE**

810-6-1-.103                      Metal Name Plates

**INTENDED ACTION:**        Repeal above rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to repeal the above rule due to the fact that it is a duplication of Sales & Use Tax Rule 810-6-1-.109; therefore, it is not necessary.

**RULE NO. & TITLE**

810-6-1-.109                      Name Plates, Metal

**INTENDED ACTION:**        Amend above rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes amend title of the above rule to be more in line with current industry trends.

**RULE NO. & TITLE**

810-6-1-.112                      Outdoor Advertising Signs

**INTENDED ACTION:**        Amend above rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rule in order to provide further guidance and clarification. In addition, the title of the rule will be amended.

**RULE NO. & TITLE**

810-6-3-.47.02                      Private Schools, Sales to

**INTENDED ACTION:**        Amend above rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rule to clarify the exemption in the law for sales to schools, specifically, private schools.

**RULE NO. & TITLE**

810-6-5-.36

Prepaid Wireless 9-1-1 Charge

**INTENDED ACTION:** Amend above rule

**SUBSTANCE OF PROPOSED ACTION:** The department proposes to amend the above rule to notify taxpayers that the Emergency 9-1-1 Board has increased the rate applied to each retail sale of prepaid wireless minutes and to provide historical rates.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** A public hearing will be held at 2:30 p.m. on Wednesday, August 6, 2014, Room 1203, First Floor, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at [www.revenue.alabama.gov/rulehear.html](http://www.revenue.alabama.gov/rulehear.html).

All interested parties may present their views in writing to the Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132 at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:**

Wednesday, August 6, 2014

**CONTACT PERSON AT AGENCY:**

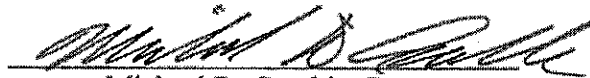
Patricia Toles

Alabama Department of Revenue

4131 Gordon Persons Building

Montgomery, Alabama 36132

(334) 242-1380



Michael D. Gamble, Secretary  
Alabama Department of Revenue

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(g) The term "9-1-1 Charge" shall mean the current CMRS emergency telephone service charge established under Section 11-98-7(b)(1). Upon its implementation, the replacement, statewide 9-1-1 Charge will be imposed under Section 11-98-5(a) as of October 1, 2013.

(3) Unless otherwise defined herein, the definitions of terms set forth in Code of Alabama 1975, Section 11-98-1, are incorporated by reference herein.

(4) All sellers, including retailers and CMRS service providers, making sales of prepaid wireless telephone service shall collect from the consumer the 9-1-1 Charge on prepaid retail transactions occurring in this state and report the number of taxable and nontaxable transactions and the amounts of 9-1-1 Charges collected to the Department of Revenue.

(5) The 9-1-1 Charge shall be collected on each prepaid retail transaction regardless of whether the prepaid wireless telephone service is purchased in person at the business location of the seller in Alabama, by telephone, through the Internet or by any other method by a consumer in Alabama.

(6) For purposes of retail transactions occurring via the Internet, or by other telecommunication device, the Prepaid Wireless 9-1-1 Charge shall be collected on each transaction with a customer if that customer has a primary street or business address in Alabama and the customer is within the licensed service area of the CMRS provider. If the primary street or business address cannot be determined and if that customer has an area code designated as an area code for Alabama or a credit card billing address in Alabama, then the Prepaid Wireless 9-1-1 Charge shall be collected from that customer for each transaction. **A flat rate of \$1.75 per retail transaction will be effective August 1, 2014. The historical rates of for the Prepaid Wireless 9-1-1 Charge is are as follows: \$.70 per retail transaction for the period of September 1, 2012 through September 30, 2013; and, the service charge will remain at this rate until October 1, 2013, at which time the rate will be \$1.60 per retail transaction for the period October 1, 2013 through July 31, 2014.**

(7) The 9-1-1 Charge collected on prepaid wireless service will be reported by the seller on a new form entitled "Prepaid Wireless 9-1-1 Return." Sellers shall be required to file their Prepaid Wireless 9-1-1 Returns electronically through the Department's online filing system, My Alabama Taxes (MAT). However, a seller who is unable to file online because the seller does not have access to a computer or the Internet, or because of other special circumstances, may apply to the Commissioner for a waiver from the requirement to file electronically.

(8) The 9-1-1 Charge on prepaid wireless telephone service is the liability of the consumer and not the seller or provider, except that the seller shall be liable to collect and remit all Prepaid Wireless 9-1-1 Charges on all qualifying transactions, including all instances where the seller has failed to separately state and collect the charge from the consumer. When the Prepaid Wireless 9-1-1 Charge is billed as a separate charge, the

**810-6-5-.36 Prepaid Wireless 9-1-1 Charge.**

(1) The Legislature has passed Act No. 2012-293 amending Chapter 98 of Title 11, which governs the operations of the Commercial Mobile Radio Service (CMRS) Board and imposes the CMRS emergency telephone service charge, herein referred to as the "9-1-1 Charge." Under the provisions of the Act, effective September 1, 2012, new Section 5.3 is added to Chapter 98 which requires the Department of Revenue to administer and collect the 9-1-1 Charge imposed on retail sales of prepaid wireless telephone service. The CMRS Board will continue to collect the 9-1-1 Charge on postpaid service.

(2) For purposes of this rule, the following terms shall have the respective meanings ascribed by this section:

(a) The term "department" shall mean the Department of Revenue for the State of Alabama.

(b) The term "prepaid retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

(c) The term "prepaid wireless consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction.

(d) The term "prepaid wireless telephone service" means a service that meets all of the following requirements:

1. Authorizes the purchase of CMRS, either exclusively or in conjunction with other services.

2. Must be paid for in advance of the usage.

3. Is sold in units or dollars whose number or dollar value declines with use and is known on a continuous basis or provides for unlimited usage for a fixed period of time.

(e) The term "resale" means a sale of a prepaid wireless telecommunication service to a purchaser who acquires the service for the purpose of reselling it in the United States in the normal course of business in the form or condition in which it is purchased or as an integral part of a taxable item as defined in Section 40-23-1.

(f) The term "seller" means a person who sells prepaid wireless telecommunication services to any consumer. The term also includes those CMRS service providers who provide prepaid wireless service to their customers by either selling prepaid services at a retail location, via the Internet, telecommunication device, or otherwise.

amount shall not be included in the base for measuring any tax, fee, surcharge, or other charges that are imposed by this state, any political subdivisions of this state, or any intergovernmental agency.

(9) An allowance or discount of 4% of the 9-1-1 Charge collected, or deemed to be collected, on sales of prepaid wireless telephone service may be deducted on the return and retained by the seller.

(10) Section 11-98-5.3 provides that the Department shall administer the 9-1-1 Charge on prepaid wireless telephone service under the same provisions and procedures applicable to the administration of state sales tax, which include the provisions in Chapter 1, Chapter 2A, and Chapter 23 of Title 40.

(11) All persons selling prepaid wireless telephone service to consumers in Alabama shall make application for an account number for reporting the 9-1-1 Charge online at [www.revenue.alabama.gov](http://www.revenue.alabama.gov) or by contacting the Registration Unit.

(12) The Prepaid Wireless 9-1-1 Return and payment are due on or before the twentieth (20th) day of each calendar month for the preceding calendar month.

(13) If a return is not timely filed and/or paid, the seller shall be assessed the appropriate penalties and interest as provided in Sections 40-2A-11 and 40-1-44.

(14) Transactions excluded from the 9-1-1 Charge:

(a) The sale of prepaid wireless telephone service for resale.

(b) A sale of a minimal amount of service, sold for a single, non-itemized price as part of the purchase of a wireless communications device, the seller may elect not to apply the 9-1-1 charge to the initial transaction. For these purposes, a service allotment denominated as ten (10) minutes or less, or five dollars (\$5) or less, is a minimal amount. If the seller elects to collect such charge, it shall be reported with other prepaid communication charges.

(c) The seller is required to maintain records in order to verify that transactions on which the Prepaid Wireless 9-1-1 Charge was not collected are not subject to the charge. The record may be in paper or electronic format and shall include the details of the transaction including the date of the transaction, the customer's name and address, the reason the exemption is claimed (9-1-1 Charge account number if applicable), invoice number, and the transaction details. If the seller fails to maintain the records to substantiate that a transaction is not subject to the 9-1-1 Charge, then the transactions will be subject to the charge.

(15) The Prepaid Wireless 9-1-1 Returns shall require the following information:

(a) Seller's Prepaid Wireless account number, legal name, and complete address,



- (b) Period covered by the return and due date of the return,
- (c) The number of transactions of sales of prepaid wireless service,
- (d) The number of transactions not subject to the 9-1-1 charge,
- (e) The number of transactions subject to the 9-1-1 charge,
- (f) Amount of the 9-1-1 charge due,
- (g) Allowance or discount of 4% of the 9-1-1 Charge collected,
- (h) Penalties due, if applicable,
- (i) Interest due, if applicable,
- (j) Credits claimed, if any
- (k) Total amount due,
- (l) Total amount remitted,
- (m) An indication if payment of tax is made through electronic funds transfer (EFT), and
- (n) Seller's signature, title, and date signed.

Author: Ginger Buchanan, Leslie Michaud

Authority: Sections 40-2A-7(a)(5), 11-98-5.3, Code of Alabama 1975 and Act 2012-293

History: New rule: Filed November 19, 2012, effective December 24, 2012.  
Amended: Filed November 20, 2013, effective December 25, 2013.